EMERGING TRENDS OF MEDIATION IN INDIA: A STUDY ON THE IMPLICATIONS OF THE MEDIATION ACT 2023

SHORT SYNOPSIS

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by

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DECLARATION BY THE SCHOLAR

I hereby declare that the short synopsis entitle **"Emerging Trends of Mediation in India: A Study on the Implications of The Mediation Act 2023"** being submitted in partial fulfillment of the requirement for the degree of Doctor of Philosophy in the Department of Law under the School of Law of Manav Rachna University, Faridabad during the academic year 2024-2025.

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Abstract

When discussing improvements to Indian laws the Mediation Act of 2023 stands as a major accomplishment. It favours mediation because of its functional value for dispute resolution. Since ancient times Indian society included mediation in its traditions and it continues to be an important component of contemporary legal systems under tools like the Commercial Courts Act 2015 or Section 89(1) of CPC 1908. Through the Mediation Act India prepares to officially use mediation first in handling modern civil and commercial conflicts. Before going to court parties have choices to use mediation alone or as supplemental support during their court proceedings.

According to the article these training programs need better educational outreach due to their difficult pricing system and inconsistent international mediation standards. These elements make mediation occur rarely on a national as well as a worldwide scale according to current standards. To make international mediation simpler the analysis suggests defining its costs and teaching people new ways to see mediation effectively. The text describes certain tactical solutions to address these demand needs.

The Mediation Act 2023 requires updates because these issues show the need to develop better ways of handling disputes in India. This research wants to develop better legal services by suggesting how to execute the Act properly.

Keywords: Alternate Dispute Resolution, Mediation Act, Justice, Dispute. Etc

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1. Introduction

When parties work together with an unbiased third person they find less formal solutions to their conflict through mediation. Throughout human history people used mediation as their preferred way to solve conflicts between themselves. In India mediation has been practised for many years through local Panchayats as they solve neighbourhood disputes between residents. The British takeover period made people stop using mediation even though it worked well which boosted the number of conflicts. A provision for the resolution of disputes outside of the court system is included in Section 89(1)[1] of the Civil Procedure Code, 1908, which was added by the Amendment Act[2] of 2002. When both parties demonstrate a willingness to settle, the court is responsible for formulating potential settlement conditions and presenting them for final acceptance. After hearing both sides, the court may revise the terms and, if appropriate, refer the dispute to alternative resolution mechanisms such as mediation or a Lok Adalat. Where necessary, the court can formally approve the conduct of a dispute resolution session.

The concept of pre-institution mediation in India was first introduced through the *Commercial Courts Act*, enacted in 2015. This initiative was based on recommendations made in the 253rd Report of the Law Commission of India.

The 2018 updated law now needs mediation steps to start. The parties need to try all available mediation rules under the Commercial Courts (Pre-institution Mediation and Settlement) Rules, 2018 before taking their case to court[3]. Mediation centres operate across all of India to help people solve their problems through mediation. Mediation proves as the best alternative to resolve conflicts across all kinds of situations from marriage disputes to non-domestic problems including civil law disputes.[4].

Critical Elements of the Mediation Act of 2023[5]

- **Mediation: Definition and Scope:** Section 3(h) of the Act establishes explicit description of the mediation process to set it apart from litigation and arbitration procedures. Under Section 3 (h) of this Act mediation remains a process where parties willingly cooperate and mediation improves how they talk and relate to each other.

[1] Section 89(1) in The Code of Civil Procedure, 1908 (Settlement of disputes outside the Court).
[2] The Constitution (Eighty-sixth Amendment) Act, 2002
[3] Mediation in India: Charing the Road Ahead, Available at https://www.lexology.com/library/detail.aspx?g=920e6d73- be01-49a8-8281-eb534a81a767
[4] Nazuk Sood, "Mediation Act, 2023: An Analytical Study" 6 *International Journal for Multidisciplinary Research (IJFMR)* 1-6 (2024).
[5] The Mediation Act, 2023, No. 32 Of 2023

Pursuant to Section 3 (I) every mediator must join the India Mediation Council and this guideline applies to all mediators.

- **Pre-litigation Mediation:** The concept of mediation prior to a lawsuit is introduced in the Act within Section 5[6]. People in commercial and civil conflicts can try mediation first before starting formal court procedures. Mediation under this law covers business problems over defined sums and involves governmental authorizations while setting up a special mediation path. The settlement of conflicts rests best with registered Council mediation experts and officials plus court-approved or authorized service professionals who run mediation services. The Claims Tribunal will suggest mediation after negotiations on Motor Vehicles Act of 1988 damage claims fail. Mediating matters prior to lawsuit is regulated by the 9th Schedule, which is part of the Commercial Courts Act[7], 2015 (Chapter IIIA[8]). Under this section the Act demands petitioners to take mediation first except for urgent interim relief situations. The central government has appointed several authorized agencies to help with mediation. Mediation lasts 120 days yet parties may obtain a 60-day extension through joint agreement. The statute-enforced deadline continues to operate without interruption. The Mediation Act[9], 2023 governs and formalises settlement agreements reached during mediation. Section 12A[10] lays forth the processes for pre-litigation mediation, and section 21A updates incorporate those regulations.
- **Mediation Council:** A Mediation Council is created under Section 31[11] of the Act and is charged with overseeing and controlling mediation services. As a council body these members will work to spread the word about mediation and they will register certified counsellors plus develop rules for their certification. The Indian government selected seven people to serve on the Cabinet.
- **Online Mediation:** In addition, Section 30[12] of the Act includes a provision that allows for the participation of parties in online mediation. A law allows online mediation when all participants agree since written consent makes it legal under this legislation. Secure

[6] Section 5 of Mediation Act, 2023
[7] Ibid
[8] Chapter Iiia. Pre-Institution Mediation And Settlement
[9] Ibid
[10] Section 21 of Mediation Act, 2023-Non-settlement report
[11] Section 31 of Mediation Act, 2023.
[12] Section 30 of Mediation Act, 2023.

chat rooms combined with encrypted email and video and audio calling make many electronic tasks possible in online mediation programs. Mediation procedures in electronic settings will be created from the specified standards. Everyone involved in the online mediation sessions must keep the mediation secrets from beginning to end. The mediator has complete authority to protect these essential aspects of the process. The Act makes it possible to maintain secure communication channels between participants except during normal mediation talks.

- **Confidentiality:** Under mediation the information shared by all participants must stay protected from public view. Section 22 of the Act gives proper protection for keeping arbitration discussions confidential. The mindset of free expression develops because any mediation statements remain private and cannot be used as courtroom evidence.

- **Effectiveness of Mediation Agreements:** The Act emphasises that mediation agreements can be enforced through the courts and provides appropriate penalties for parties who do not comply. Section 415 of the Act addresses mediation agreements, specifying the formal requirements for their documentation and the inclusion of successors to the original parties. These agreements—whether standalone contracts or clauses within broader contracts—facilitate the resolution of disputes through mediation. Uncontested legal pleadings, electronic communications compliant with the *Information Technology Act, 2000*, or any signed documents can serve as valid evidence of a written mediation agreement.
- Importantly, any written document that includes a provision for mediation is deemed a valid mediation agreement. The mere mutual consent of the parties to resolve their disputes through mediation is sufficient, regardless of whether the dispute has already arisen.
- For an agreement to qualify for international mediation, it must primarily relate to the resolution of commercial disputes, as defined under clause (a) of Section 3 of the Act. Additionally, courts are now empowered to refer disputes to mediation by utilizing the framework outlined in the Court's Appendix on Mediation before pursuing litigation, thanks to the Act's introduction of the concept of court-annexed mediation. Reducing the backlog of cases in the court system and encouraging peaceful resolutions are the goals of this clause.
- **Cost Efficiency:** This Act seeks to lower the overall expense of litigation as well as the amount of time that is involved with it by elevating mediation to the position of

principal means of conflict resolution. For the sake of efficiency and speed, both sides are urged to mediate their conflict resolution. [13]

The Mediation Act of 2023 sets new standards for ADR systems in India compared to past legislation. The Act seeks to solve court congestion by promoting mediation since Indian laws handle too many cases. The new Act creates a clear plan for mediated settlements while also giving official authority to change how disputes get resolved. Changing technologies and emerging friendly methods of conflict resolution speed up the growth of mediation processes. This study is conducted with the aim of analysing the important aspects of the Mediation Act[14] 2023, evaluate the potential influence that it could have on the efficiency of the legal system, and investigate how rising trends, such as the utilisation of technology, are revolutionising the area. In addition, the study will investigate the consequences of the Act for a variety of stakeholders, as well as the difficulties that may be encountered during its implementation. It will also provide insights and recommendations to ensure that the Act is successfully adopted within India's legal system. It will also provide insights and recommendations to ensure that the Act is successfully adopted within India's legal system.

1.1 Impact

Tackling the Pendency of Cases: During May 2022 India faced 47 million outstanding cases across all court venues. The system holds 87.4% cases in lower courts with 12.4% in higher courts. The PRS conducts this research on political matters. A coherent system is necessary now to reduce court backlog in India. The process of mediation plus compensation can help reduce the period an account stays open to legal action.

Cost-effective and time saving: Focusing disputes through mediation offers better options than the normal legal solution processes. Mediation ranks as one of the most effective ways to keep costs down. All disputants can reduce legal expenses through this method. You will solve your dispute sooner than with regular courts by choosing to mediate the matter.

Peaceful Resolution: Through effective cooperative dialogue and open communication mediation creates workable solution for both parties. The mediator oversees this process without taking sides. Mediation gives both parties privacy at low cost and maintains connection because it lowers anger levels. The parties retain power in finding acceptable solutions because

[13] Madhur. The Mediation Act 2023: Facilitating Conflict Resolution in the Modern Era - Karanjawala & co. Karanjawala & Co. Published October 12, 2023. https://karanjawala.in/the-mediation-act-2023-facilitating-conflict-resolution-in-the-modern-era/

[14] Ibid

mediation simplifies dispute resolution without aggressive handling or expensive legal expenses[15].

1.2 Emerging Issues

Several parts of the bill could result in serious difficulties ahead. The study reveals that arbitrators and minority participants do not get equal treatment in mediation sessions and take home decreased income. When lawyers select mediators their choice tends to limit the number of people of colour who participate in the arbitration process. Partnering between mediation organizations and counsellor networks is needed to make arbitration compete with standard court actions and hire arbitrators from different career backgrounds.

Providing good quality mediation services will pose the first set of difficulties for mediators. Experts provide mediation services mostly for people with high assets but regular parties can seek government support. Expert and non-expert mediators have their roles because they can deal with problems either more complicated than regular authorities or simpler than professional professionals. The Indian government will have significant difficulties containing mediation expenses given the unique features of their country[16].

1.3 Need for the Study

India considers mediation as its vital system for settling legal conflicts. People developed it through their ancient community justice practices. In 2023 the government of India officially introduced the Mediation Act. It took many years for the system to evolve into an organized method that operates under legal institutions. We need to evaluate this new law on mediation because it deals with rising court cases and alternative dispute resolution needs to ensure effective practice alignment with worldwide standards.

This research examines mediatory practices history from origin to integration within Indian law and shows why it improves fast and affordable ways to solve conflicts. Our examination will study both the Mediation Act of 2023 consequences such as its effect on the Mediation Council of India and how it creates solid and official mediation procedures. The essay analyzes if digital tools can improve regular mediation because ODR options continue to expand in this area. This research will examine potential problems in implementing the Mediation Act 2023 while checking how well the present law provides clear rules for enforcing and following these regulations.

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[15] Desk I. Mediation Act, 2023 - IMPRI Impact and Policy Research Institute. IMPRI Impact and Policy Research Institute. Published July 3, 2024. https://www.impriindia.com/insights/mediation-act-2023/

[16] Bharucha A. Mediation Act 2023 - Two steps forward, one step back. Lexology. Published April 22, 2024. https://www.lexology.com/library/detail.aspx?g=9ed4b5ee-b54e-485b-9552-bc40c08dc5d2

This research investigates how India positions itself in worldwide mediation trends and reviews the settlements enforceability during mediations while identifying reforms that align best practice standards. This study provides useful recommendations to train better mediators while educating people about mediation while making the new Mediation Act work better. The study findings will assist members of the mediation ecosystem such as policymakers, legal practitioners, mediators and their associates to implement new strategies for developing mediation in India.

1.4 **Scope of the Study**

This research aims to explain how India developed mediation practices and their effectiveness through the Mediation Act 2023 and newer mediation methods. The research explores India's legal history with mediation and shows how formal law embraced mediation services while studying what this new law does to make mediation available for resolving disputes instead of using courts. The analysis includes main points about mediation taken from both ancient and present law textbooks. Despite its origins in community mediation practices the formal legal process in India began to use mediation through judicial orders and law making. The analysis examines how earlier initiatives helped form mediation procedures in India especially through the Arbitration and Conciliation Act of 1996, Section 89 introduction of mediation into Civil Procedure Code and rulings from the Supreme Court.

This study investigates the Mediation Act 2023 and reviews important details of its text as well as explains its main goals and obstacles in execution. The study examines what the Act does to establish mediation standards and encourages early resolution along with clear rules. This analysis examines how the Mediation Council of India helps set mediation standards across the country and gives mediator qualifications plus promotes ethical conduct. Our analysis studies how legal and institutional problems stop the Mediation Act from working properly and explains why people struggle to use mediation agreements in courts.

Research explores how technology affects mediation through Online Dispute Resolution (ODR) which offers people online mediation alternatives to standard methods. The assessment investigates digital tools to help people access better and more economical dispute resolution services. The document examines the possible obstacles to ODR dominance such as security risks to digital data and personal privacy alongside low digital skills. This work studies different nations to discover effective mediation practices with operating systems and judgment methods used by countries that made mediation part of their legal structure. We examine how India fits into the global mediation framework especially as it relates to the Singapore

Convention on Mediation while assessing the strength of cross-border dispute settlement agreements made through mediation.

Our research depends on using both quantitative and qualitative data in tests to properly evaluate Indian mediation programs. It collects data from all dispute stakeholders including mediators and legal professionals as well as judges to understand how they see mediation success and obstacles. Our recommendations improve mediator training sessions while spreading mediation knowledge to the public and refining procedures to make the Mediation Act 2023 work better.

The study delivers insights that multiple stakeholders need to upgrade the Indian mediation system. These groups include lawmakers, policymakers, officials, lawyers, company leaders and educators. Since the study took a wide view of the subject area it also conducted detailed research on key aspects. Its research scope remains restricted because of certain clear boundary conditions. It concentrates solely on the professional and established mediation systems found in legal and public institutions. Although the document utilizes established research plus legal judgments and expert policies it does not conduct real-world mediation testing because of limitations. This research aims to give an inclusive and future-oriented evaluation of Indian mediation while suggesting useful improvements to make this dispute resolution method more successful.

1.5 Way Forward

India has made great strides in establishing mediation as the principal means of settling disputes with the enactment of the Mediation Act 2023. However, the Act faces some challenges that must be resolved for it to achieve its maximum potential, even while it achieves significant advancements.

The lack of an international mediation structure needs to be introduced first in our framework changes. The Act lacks rules on how to enforce cross-border arbitration awards obtained outside India although it accepts foreign mediation. The plan lacks clear rules about how to use it globally which makes its worldwide application harder. A complete system is necessary to handle conflicts that span multiple nations when it comes to mediation. The framework can be used across different situations because of this improvement.

The public must learn about and skilful mediators need proper training to make meditation work well against cultural resistance. Even with its rising preference people see traditional court battles as still the best way to handle disputes. Creating widespread belief that mediation offers an effective conflict resolution method at lower costs and less stress will drive Indian culture to adapt this strategy.

Mediation Act 2023 will work best when the law makes settlement terms reached through mediation easier to enforce. All participants will place their trust in the process when these changes take place. Through effective solutions this new legislation can reshape Indian mediation practices as more practitioners and parties start using this system.

2. Literature Review

People and organizations widely recognize mediation as a major tool to reach agreements through the system of problem resolution alternatives. The framework of the system contains all mediation practices. Both mediation and arbitration work well as alternative methods for handling disputes that skip the legal system. This society recognizes effortful talks and negotiations as proper methods to settle disagreements. Both Village Panchayats and Nyaya Panchayats achieved dispute resolution effectively through their use of mediation and conciliation for many years. Going to Panchayats proved a quicker and easier option than using formal town-based court systems since these courts were too far from rural areas. A rising number of documented cases creates our main reason to worry about this situation. The increasing population creates more legal issues that courts must handle but they do not have enough staff to resolve these problems in a timely manner. People are asserting their legal entitlements at an enhanced rate. A growing number of individuals are using legal protection

because they understand their rights better. After choosing to build a bypass to fix highway congestion the court formed alternative dispute methods through conciliation and mediation. This decision was ultimately made. This modern strategy addresses the problem at lower costs while resolving it. All people will achieve their best outcomes when everyone participates constructively to solve problems. Going through court battles leaves at least one person defeated even if one participant wins yet emerges drained emotionally and financially. A settlement works for everyone since parties unite to solve their issues. Settlement provides the greatest benefits to everyone.

According to Rule 3 of Order XXXII A[17] of the 1908 Code of Civil Procedure, parties involved in disputes involving family law are expected to make endeavours towards resolution at some point throughout the course of the dispute. The court is required to take part in any settlement negotiations that involve claims that have been brought against the government or a public person, as stipulated by Rule 5B of Order XXXVII[18]. As a consequence of the Arbitration and Conciliation Act having been passed in 1996, these standards have become more thoroughly established. Once the court has made a decision about whether or not to accept or reject the papers, it is then able to become aware of the genuine concerns that are associated with the claim. In order to resolve these concerns, the court acts in accordance with the procedure that is described in the Act that was discussed before. As per section 89[19] of CPC, 1908, the disagreement or litigation may be referred to an arbitrator. This is the case regardless of whether or not an arbitration clause is included in the agreement. Consequently, it becomes imperative to issue a clear statement regarding whether party consent is necessary for referrals that could potentially lead to arbitration.

Cross-border financial transactions are inherently more complex than domestic ones due to the involvement of multiple financial institutions operating under different regulatory regimes. Accordingly, it is essential to consider the various factors previously identified that influence the efficiency, transparency, and reliability of such transfers. To address these challenges, the European Community has introduced an ordinance establishing standardized procedures and minimum essential requirements for international credit transfers. The financial service provider and originator should have a defined process for addressing complaints or disputes, and this regulatory policy tries to foster the creation of such mechanisms.

[17] Order XXXII rule 3 of C.P.C.
[18] Rule 5B of Order XXXVII of CPC.
[19] Ibid

Customer privacy and the protective measures taken towards sensitive information are fundamental in mediation involving clients from financial and banking institutions. In the course of mediation, there are some concerns which are raised that need the client's legal relations to some aspect of the deal to be altered. With the participation of all interested parties, prompt approval is possible and so resolution of administrative delays is avoided. ADR has mediation as one of it's pillars and this is credited to the ability of mediation in resolving issues without escalating conflicts. Contrary to contentious litigation, mediation aims to strengthen relations and resolve in a positive, outcome-oriented, and constructive manner pledging continued responsiveness to the parties' needs even after the resolution is achieved. Overall, mediation resolves the physical problem but also unclogs the mental pipes of both sides so the preconceived ideas they may have had are washed away[20].

The mandal of Sushmita The purpose of this particular research project is to study mandatory mediation as a potential technique for lowering the number of cases that are currently being heard in the traditional judicial system.

Benedikt et al. are of the opinion that the majority of the time, the outcome of legal procedures is either a big monetary settlement or a lengthy jail sentence. Many times, the alternative dispute resolution procedures that are the most successful are the ones that receive the least amount of attention. Since there is no alternative approach of conflict resolution that will be effective in the event that the parties are unable to trust one another, direct discussions are the method that is recommended. At this moment in time, the alternate method of conflict resolution that is most widely utilised in Poland is mediation. If you are looking for a way to settle a conflict outside of court without having to commit a substantial amount of time or money in the decision-making process, mediation is the ideal option for you to consider. This study aims to expand understanding of ADR in Europe, particularly in the German construction industry, and explores various ADR procedures. In order to improve message clarity, flow, and tone, an academic voice has been adopted in the following text:

Trends and Challenges in Alternative Dispute Resolution (ADR)

In more recent years, beginning in the 1990s, the practice of using Alternative Dispute Resolution (ADR) has grown significantly; however, its use across jurisdictions and industries has remained heterogeneous. Growth in use could be achieved with specific education meant

[20] Ahmed, Masood. "Moving on from a judicial preference for mediation to embed appropriate dispute resolution." Northern Ireland Legal Quarterly 70, no. 3 (2019): 331-354.

targeting stakeholders and the careful crafting of contracts to eliminate ambiguity which could lead to disputes.

Ethical Challenges in Mediation

Weston has troubling case study after case study on the use of mediation in legal battles around sexual assault claims. In some of these cases, a range of alleged tortfeasors have settled secretly and for far too less which enables them to continue wielding power in ways that are harmful to others. This study postulates that attorneys, mediators, and arbitrators have an ethical duty not to allow passive third parties who are exposed to mediations with Nondisclosure agreements to become vulnerable devoid of active protective measures, especially given the closed nature of such agreements which obstruct the disclosure of information vital for justice.

ADR Reform in Spain

Imagine a small business owner entangled in a contract dispute. Traditionally, litigation would drag on for months, draining resources. Spain's push for broader ADR integration, inspired by Article 24 of the Constitution, could provide efficient resolutions without lengthy court battles. Yet, for ADR to truly thrive, infrastructure—such as mediation centers and trained professionals—must be developed to support accessible dispute resolution.

Lawyers and ADR in Australia

Picture an urban planner struggling to resolve conflicts over new developments in Melbourne. Community tensions are high, and litigation seems inevitable. Australian lawyers advocating ADR emphasize the importance of seeing disputes not merely as legal issues but as matters affecting communities and livelihoods. With better mentoring and specialized training, professionals can guide parties toward productive dialogue—reducing burdens on courts while fostering trust in mediation.

ADR in Estonia

Consider a family navigating a contentious divorce in Estonia. Though mediation is legally mandated, few utilize it due to lack of awareness and institutional support. What makes mediation work is not just legislation but a societal shift—public education, professional networks, and cultural acceptance. Without these elements, ADR remains an overlooked option despite its potential to offer constructive and humane conflict resolution.

ADR in Russia

Arbitration (Commercial Arbitration)

- **Regulated by**: Federal Law No. 382-FZ "On Arbitration (Arbitral Proceedings) in the Russian Federation" (2015).

- **Scope**: Mostly used for commercial disputes between businesses.
- **Institutions**:
    - The **International Commercial Arbitration Court (ICAC)** at the Chamber of Commerce and Industry of the Russian Federation.
    - Other recognized arbitral institutions.
- **Key Feature**: Enforceable awards, provided due process is followed and formal requirements are met.

Mediation

- **Regulated by**: Federal Law No. 193-FZ "On Alternative Dispute Resolution Procedure with the Participation of a Mediator (Mediation Procedure)" (2010).
- **Scope**: Civil, family, labor, and some commercial disputes.
- **Voluntary**: Parties must agree to mediation; it's not imposed.
- **Confidentiality**: A core principle.
- **Mediator Requirements**: Must meet professional standards; there are registers of certified mediators.

Negotiation

- **Informal ADR method**: Common and often the first step before formal action.
- **Not regulated specifically** but widely practiced in both civil and commercial contexts.

Online Dispute Resolution (ODR)

- **Emerging Trend**: Particularly for e-commerce and consumer disputes.
- Russia is exploring digital platforms for dispute resolution, though this is not yet mainstream.

Challenges and Developments

- **Enforcement of foreign arbitral awards** in Russia can be complex, especially in politically sensitive cases.

- **Judicial reform and pro-ADR policies** have been slowly improving the legal environment.
- **Limited public trust** in ADR remains a hurdle in some sectors.

ADR in Estonia (Alternative Dispute Resolution) refers to the processes used to resolve disputes without going through the formal court system. Estonia has a supportive legal framework for ADR, especially in commercial, consumer, and civil matters.

Arbitration

- **Regulated by**: The Estonian Code of Civil Procedure (Part 14 – Arbitration).
- **Main body**: The **Arbitration Court of the Estonian Chamber of Commerce and Industry (ECCI)** is the leading arbitral institution.
- **Scope**: Mostly used for commercial disputes, especially between businesses (B2B).
- **International Recognition**: Estonia is a signatory to the **New York Convention**, making arbitral awards enforceable in other countries.

Mediation

- **Regulated by**: Mediation is addressed in the **Conciliation Act (Lepitusseadus, 2005)**.
- **Scope**: Civil, family, labor, and commercial disputes.
- **Voluntary and Confidential**: Parties must agree to mediation, and confidentiality is guaranteed.
- **Court-connected mediation**: Estonian courts sometimes refer cases to mediation, especially in family disputes.

Conciliation by Notaries or Advocates

- **Special feature in Estonia**: Conciliation can be conducted by notaries or lawyers acting as independent third parties.
- **Outcome**: A notarized settlement agreement can be enforced like a court decision.

Consumer Dispute Resolution

- **Body**: The **Consumer Disputes Committee** (Tarbijavaidluste komisjon) operates under the Consumer Protection and Technical Regulatory Authority.

- **Scope**: Resolves disputes between consumers and businesses.
- **Free and fast**: Especially designed for low-cost, accessible resolutions.
- **Online platform**: Integrated into the **EU ODR platform** for cross-border consumer disputes.

Online Dispute Resolution (ODR)

- Estonia is a digital leader, and ODR mechanisms are supported, especially for consumer claims and small-value disputes.
- **Integration with EU ODR platforms** provides accessible tools for cross-border cases.

Advantages of ADR in Estonia

- Cost-effective and efficient.
- Court referrals and legal framework support ADR use.
- Strong digital infrastructure supports modern ODR.

Changes in strategy in developing countries: There is a need to perform extensive empirical work regarding how mediation can be aligned with the social and legal systems of developing nations, especially India. There is no doubt that traditional frameworks such as Panchayats have worked well for resolving disputes at the community level, but there is no assessment of how subordinate Indian legal systems integrate and utilize mediation.

Imagine a small business owner caught in a prolonged legal dispute, draining resources and straining relationships. Mediation, if properly implemented, could serve as a lifeline—offering a resolution without the time, stress, and financial burden of litigation. Yet, in many places, skepticism lingers. Cultural resistance, lack of awareness, and the perception that court rulings carry more authority prevent widespread adoption.

Take India, for instance. While Panchayats have long been trusted in settling local disputes, the leap toward formal mediation within courts and private legal processes remains incomplete. Here, research isn't just about policy—it's about understanding lived experiences. What fears do individuals have? What incentives could drive trust in ADR?

Then there's the question of ethics. Confidential mediation agreements protect sensitive matters, but without safeguards, they can also become tools for silencing victims and enabling misconduct. This is where law and morality must meet, ensuring accountability while preserving discretion.

As technology evolves, digital mediation platforms and AI-assisted resolution models might transform how disputes are handled. But are these innovations ready to bridge the gaps in fairness and accessibility? Research must explore whether automation enhances neutrality or risks reinforcing bias. Ultimately, mediation's future depends on interdisciplinary efforts—integrating law, sociology, and even psychology—to build frameworks that truly serve people. Perhaps the challenge isn't just legal adaptation, but cultural transformation.

3. Objectives

1. To analyze the historical mediation role of mediation in India's Legal and Social Structures and its integration into modern legal frameworks.
2. To assess the impact of the Mediation Act 2023 on institutionalizing mediation as the primary method of dispute resolution in India
3. To evaluate the progress in international mediation and conditions for positive outcome.
4. To investigate institutional and legal obstacles that impede the effective implementation Mediation Act 2023
5. To recommend reforms to improve mediator training, public awareness and procedural clarity under the Mediation Act 2023.

4. Research Methodology

This study is conducted through doctrinal and non-doctrinal research methods for the comprehensive study of the future of mediation in India, keeping in mind the Mediation Act 2023 and the current trends of this field.

Doctrinal research serves as the cornerstone for understanding the legal underpinnings of mediation within the Indian legal system. This method involves a systematic analysis of statutory provisions, judicial interpretations, academic commentary, and policy frameworks to construct a coherent theoretical foundation for mediation.

The present study focuses on key primary legal sources that collectively shape the regulatory landscape of mediation in India, including:

- The Mediation Act, 2023 – India's first standalone legislation on mediation, aiming to institutionalize and standardize mediation practices across jurisdictions.

- The Arbitration and Conciliation Act, 1996 – Particularly Part III, which provides for conciliation and has historically guided mediation practices in the absence of dedicated legislation.

- Section 89 of the Civil Procedure Code (CPC), 1908 – A landmark provision that empowers courts to refer disputes to alternative dispute resolution mechanisms, including mediation, thereby embedding ADR within the judicial process.

Together, these legal instruments provide the statutory and procedural scaffolding necessary for the structured development and implementation of mediation in India. This doctrinal analysis not only elucidates the current legal framework but also identifies interpretative trends and potential areas for reform.

Interviews will be conducted with:

- Accredited mediators, legal practitioners, arbitrators, judicial officials, policymakers, and academicians specializing in alternative dispute resolution

- Experts assessing real-world challenges and opportunities arising from the Mediation Act, 2023

The Medical Council of India (MCI) will also be examined concerning its professional standards for mediation practitioners, the implications of lacking a uniform regulatory framework, and the enforceability of settlements achieved through mediation. The study will explore the role of technology and Online Dispute Resolution (ODR) in broadening mediation accessibility, particularly focusing on digital dispute resolution platforms and AI-assisted mediation. Further analysis will assess the adequacy of mediator training, public awareness initiatives, and institutional support, which are critical in mainstreaming mediation as a viable dispute resolution mechanism.

Data Collection and Analytical Methodology

To ensure broad representation, data will be gathered through a combination of in-person, telephonic, and online interviews across multiple sectors. Interview responses will be transcribed and subjected to thematic analysis, identifying recurring patterns, key challenges, and policy-oriented recommendations.

Expected Contributions and Impact

By integrating doctrinal legal research—focused on statutes, case law, and scholarly commentary—with empirical non-doctrinal research involving stakeholder interviews, this

study aims to present a comprehensive and balanced analysis of mediation's evolving role in India. The findings will contribute meaningfully to:

- Legal scholarship
- Policy reforms
- Institutional advancements

Ultimately, the research will provide critical insights for lawmakers, judicial authorities, legal professionals, and academic researchers working toward the effective implementation and strengthening of mediation under the Mediation Act, 2023.

5. Hypothesis

- The Mediation Act 2023 positively impacts the adoption of mediation as the primary method of dispute resolution in India.
- Simplifying mediation processes and use of technology, both domestically as well as internationally significantly enhances accessibility and efficiency.

6. Research Questions

1. How has mediation historically been introduced into India's Legal and Social Institutions?
2. Whether institution like Mediation Council of India would highly impactful in strengthening mediation proceedings in India through Mediation Act 2023?
3. Whether usage and advancement in technology can resolve disputes through ODR?
4. Whether inconsistent regulatory requirements impede the positive performances of Mediation Act 2023?
5. Whether mediation is acknowledged internationally and what about its enforceability?

7. Expected Outcome

In the event that this study is successful, it is anticipated that it will provide a comprehensive understanding of the Mediation Act 2023 and its implications for the institutionalisation of mediation as a key technique of conflict resolution in India. In light of this, the purpose of the study is to identify the primary obstacles that are inhibiting the widespread adoption of mediation as a practice, such as the presence of complicated fee structures, insufficient standardisation of procedures, and limited public awareness, and to propose solutions that can be implemented to overcome these obstacles.

It is anticipated that study would offer light on the historical significance of mediation in the legal and social systems of India, illustrating how these time-honoured practices can contribute to and revitalise the contemporary mediation framework that was established by the Mediation Act. Additionally, the study should highlight institutional and legal hurdles that may preclude an effective implementation of the Act, and it should offer revisions to solve these issues.

In addition to this, the study will make recommendations for methods to streamline the mediation process, particularly with regard to the domestic and international types of mediation. In addition, it is anticipated that this research study will provide recommendations concerning the enhancement of the training of mediators, the advancement of public awareness, and the improvement of procedural clarity in accordance with the Mediation Act 2023. In the end, the purpose of the study is to make a contribution to the successful implementation of the Mediation Act and to make mediation more prevalent in India. The ultimate goal is to make mediation a preferred means of dispute resolution for litigation involving civil and commercial matters.

8. Limitations of the Study

This study has several limitations, the most notable being related to its geographical and contextual scope.

- Individuals in India may have different mediation experiences due to the diverse cultural, social, and legal contexts present in the country.
- This is primarily because the Mediation Act of 2023 is still in its initial stages of implementation, which itself poses a limitation. As a result, there may not be sufficient long-term case studies or empirical data to draw definitive conclusions about the Act's impact on national dispute resolution patterns.

- Furthermore, the study relies on the perspectives of mediators, lawyers, and disputing parties; however, the findings may not be representative of a wider audience due to potential limitations in diversity and representation among these stakeholder groups.

9. Tentative Chapterization

Chapter 1: Introduction

This chapter begins our research by providing its foundation. This section explains both the Mediation Act of 2023 and shows why this legislation stands out as a major achievement in Indian legal history. The report studies mediation from its position in developing dispute resolution methods and the official laws passed under the Act of 2023. The study puts forward its main goals and objectives plus research questions and hypotheses to show how the research process develops. This section describes our collecting data methods including both qualitative and quantitative procedures plus details our research's boundaries. This chapter explains how the research project will be organized and presents the blueprint for following sections.

Chapter 2: Historical Context of Mediation in India

This chapter explains the beginnings of mediation practice in India through its traditional Panchayat system and local community methods of resolving conflicts. The discussion shows that mediation has been essential for Indian society and their tradition of resolving disputes even before modern legal practices existed. The text examines both traditional and contemporary mediation legalization in Indian law through significant legal changes such as CPC 1908 Section 89 and 2015 Commercial Courts Act. This chapter analyses historical steps that led to creating the Mediation Act 2023 and shows how old thinking can improve its practical use.

Chapter 3: National Framework of The Mediation Act 2023

This chapter shows how the Mediation Act 2023 achieves its main purposes through its essential parts. The analysis considers how the act works to promote mediation across India and builds its supporting structure through named mediation centres and a system to govern mediators and court help. During this segment it will examine implementation challenges faced by the Act while showing where its real-life use differs from its legislative plan. Indian

mediation systems can learn from internationalization and add practical insights by comparing the EU Mediation Directive and the Singapore Convention on Mediation.

Chapter 4: Global Perspective and Best Practices

Mediation has come to be one of the accepted forms of resolving disputes around the world. In this chapter, it traces how mediation was accepted and developed within various legal and socio-economic systems. The work explores several mediation models: court-annexed mediation, community mediation, and private mediation. This chapter points out some of the best practices that have helped in integrating mediation into the legal system: mandatory mediation, structured training for mediators, ethical guidelines, and institutional support. The international organizations are also said to be contributing by providing mediation standards and facilitating cross-border dispute resolution. Lessons from these well-established mediation frameworks will be analyzed to understand the strategies to be adopted for the strengthening of mediation in other jurisdictions.

Chapter 5: Online Dispute Resolution and Mediation

This integration of technology into the process of dispute resolution has birthed ODR, a tool that marries traditional mediation with digital means. This chapter takes an exploration into the history of ODR, its growing importance, and how it is used to improve access, cost-effectiveness, and efficiency in resolving disputes. Some of the important aspects of ODR are discussed in the light of virtual mediation platforms, automated dispute resolution mechanisms, and AI-assisted mediation tools. The chapter will address the legal and regulatory issues around ODR: data privacy, enforceability of agreements, ethical concerns in online mediation, etc. Case studies of successful implementations of ODR across different sectors, such as e-commerce, consumer disputes, and workplace conflict resolution, are analyzed to judge its practical effect.

Chapter 6: Role of Judiciary in Redefining Mediation in India

Policy frameworks, procedural guidelines, and judicial pronouncements by the judiciary form the critical fabric in shaping the mediation landscape. This chapter looks at the efforts of the judiciary in institutionalizing mediation, particularly its role in promoting pre-litigation mediation, encouraging alternative dispute resolution mechanisms, and integrating mediation

into the court system. It reviews major decisions that have shaped the mediating legal jurisprudence and the development of court annexed mediation centers as well as the training of judicial officers in the principles of mediation. The chapter also covers other challenges, which include judicial unwillingness, inconsistencies in mediation processes, and the necessity for legislation reforms to improve mediation as a litigating alternative. Recommendations for increasing judicial support and institutional support to mediation will be made.

Chapter 7: Data Interpretation and Findings

This chapter generally discusses mediation trends that emerge from empirical data, case studies, and expert interviews on mediation as a process. It comprises statistical evaluations of success rates in mediation, participant satisfaction with mediation, and comparative analyses of mediation in comparison to traditional litigation. The chapter general findings are keyed on the factors influencing the outcomes of mediation, including mediator expertise, willingness of parties, and the impact of cultural and social dynamics. The book also discusses obstacles to mediation, including lack of awareness, resistance from legal professionals, and infrastructural limitations. It interprets data-driven insights into evidence-based recommendations for the improvement of mediation frameworks and the adoption of mediation in dispute resolution processes.

Chapter 8: Recommendations and Conclusion

The concluding chapter brings together findings from the foregoing chapters to give a whole package of recommendations aimed at countering the challenges identified by this research. Those recommendations centered mainly on policy and legal reforms regarding streamlining the Mediation Act 2023, increasing public awareness, and improving training programs for mediators. The chapter further suggests concrete steps to remove the barriers toward adoption of mediation, including procedural simplification, fee structure clarification, and the promotion of the Act through education and awareness campaigns. The chapter concludes by outlining long-term prospects for mediation in India and making sure that the reforms flow continuously, which will help ensure that the Mediation Act 2023 meets its intended objectives in its mission to make mediation the commonest method of dispute resolution in India.

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19. Rule 5B of Order XXXVII of CPC.
20. Article 20 of The Spanish Constitution

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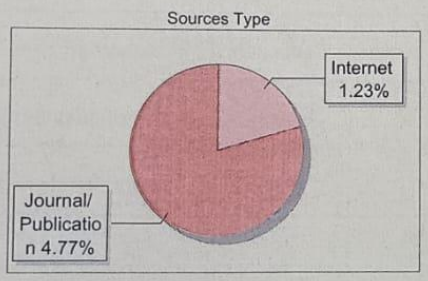

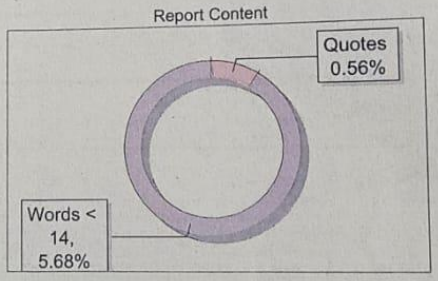

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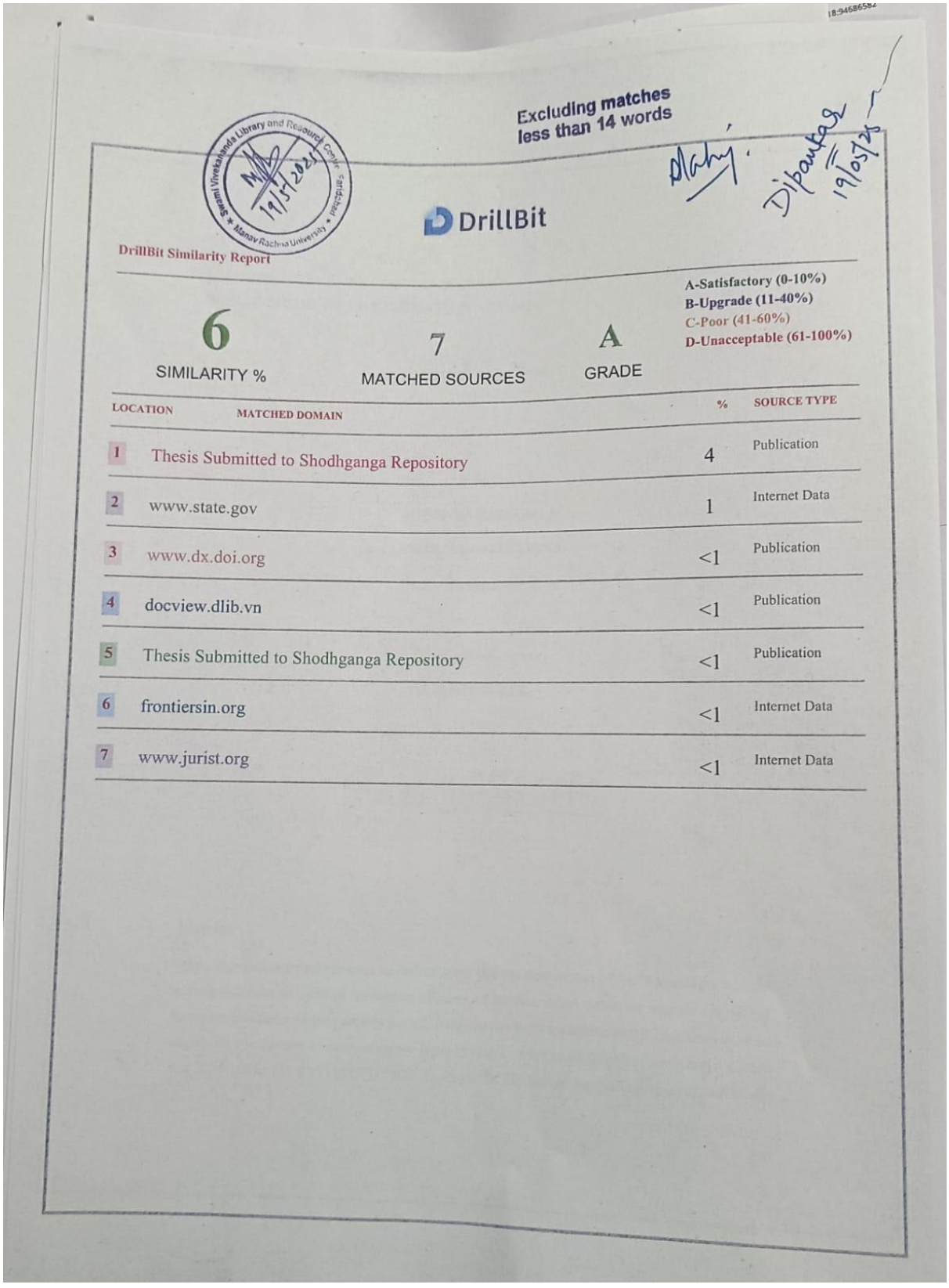

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EMERGING TRENDS OF MEDIATION IN INDIA: A STUDY ON THE IMPLICATIONS OF THE MEDIATION ACT 2023

SHORT SYNOPSIS

by

DIPANKAR SHARMA

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Under the supervision of

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Abstract

When discussing improvements to Indian laws the Mediation Act of 2023 stands as a major accomplishment. It favours mediation because of its functional value for dispute resolution. Since ancient times Indian society included mediation in its traditions and it continues to be an important component of contemporary legal systems under tools like the Commercial Courts Act 2015 or Section 89(1) of CPC 1908. Through the Mediation Act India prepares to officially

use mediation first in handling modern civil and commercial conflicts. Before going to court parties have choices to use mediation alone or as supplemental support during their court proceedings.

According to the article these training programs need better educational outreach due to their difficult pricing system and inconsistent international mediation standards. These elements make mediation occur rarely on a national as well as a worldwide scale according to current standards. To make international mediation simpler the analysis suggests defining its costs and teaching people new ways to see mediation effectively. The text describes certain tactical solutions to address these demand needs.

The Mediation Act 2023 requires updates because these issues show the need to develop better ways of handling disputes in India. This research wants to develop better legal services by suggesting how to execute the Act properly.

Keywords: Alternate Dispute Resolution, Mediation Act, Justice, Dispute. Etc

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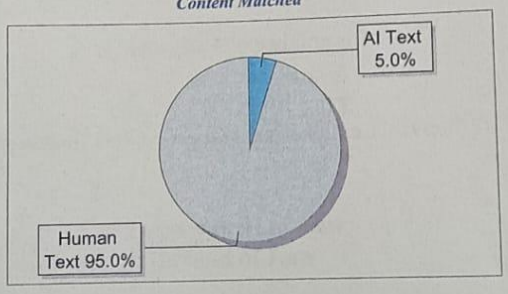

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